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LEGISLATIVE ASSEMBLY
PROVINCE OF BRITISH COLUMBIA

Select Standing Committee
on
Constitutional Matters
and
Intergovernmental Relations

PRELIMINARY REPORT

British Columbia and the Canadian Federation

Fifth Session

Thirty-fourth Parliament

Legislative Assembly of British Columbia

August 15, 1991

Honourable Bruce Strachan, MLA
Chairman

Mr. Colin Gabelmann, MLA
Deputy Chairman

"Nothing in life is to be feared, it is only to be understood."

- Marie Curie (1867-1934)

LEGISLATIVE ASSEMBLY
PROVINCE OF BRITISH COLUMBIA

Parliament Buildings,
Victoria, British Columbia

August 15, 1991

To the Honourable,
The Legislative Assembly
of the Province of British Columbia,
Victoria, British Columbia

Honourable Members:

We have the pleasure to present the **Preliminary Report** of the Select Standing Committee on Constitutional Matters and Intergovernmental Relations appointed by Resolution of the House on June 27, 1991 to consider and report upon the matter of British Columbia and the Canadian Federation. The Committee was instructed by the House to prepare a **Preliminary Report** by August 15, 1991.

Many people deserve to be acknowledged and thanked for their participation in our Committee's preliminary efforts. We were seeking views from British Columbians on our country and it's constitution. We discovered a profound desire for Canada to remain intact as a proud nation. From our presenters we found considerable knowledge, concern, remarkable energy and much provocative comment. For this we thank all those who wrote to us and appeared at our hearings.

Our sincere thanks must also go to the Members of this Committee. As a Select Standing Committee of the Legislative Assembly, with a unanimous mandate, we determined that we must be non-partisan, receptive and acting at all times in the best interest of all British Columbians. In our view we succeeded.

Respectfully submitted,

Hon. Bruce Strachan, MLA
Chairman
Prince George South

Mr. Colin Gabelmann, MLA
Deputy Chairman
North Island

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TERMS OF REFERENCE

In the Legislative Assembly of British Columbia on Thursday, June 27, 1991, the Honourable Bruce Strachan, MLA moved;

That the Select Standing Committee on Constitutional Matters and Intergovernmental Relations be authorized to consider the state of the Canadian federation and to consult broadly with British Columbians to determine their views on:

1. *the social and economic interests and aspirations of British Columbians and other Canadians within the federation; and*
2. *the form of federation that can most effectively meet the social and economic aspirations of British Columbians and all Canadians.*

That the Committee may review and report on proposals for constitutional change brought forward within British Columbia or elsewhere in Canada.

That the Committee provide a preliminary report and recommendations to the Legislative Assembly by August 15, 1991.

In addition to the powers previously conferred upon the said Committee by the House, the Committee shall have the following additional powers, namely:

- *(a) to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;*
- *(b) to adjourn from place to place as may be convenient;*
- *(c) to appoint of their number one or more subcommittees and refer to such subcommittee any of the matters referred to the Committee; and*
- *(d) to retain such personnel as required to assist the Committee.*

That the Committee may release its report during a period when the Legislative Assembly is adjourned or prorogued by depositing a copy with the Clerk of the Legislative Assembly and, upon the resumption of the sittings of the House, the Chairman shall present all reports to the Legislative Assembly.

The Legislative Assembly adopted this motion *nemine contradicente*

On May 7, 1991 this Legislative Committee was created by the Legislative Assembly by amending Standing Order 68(1), with these initial terms of reference;

... which said Committees shall severally be empowered to examine and inquire into all such matters and things as shall be referred to them by this House, and to report from time to time their observations and opinions thereon, with power to send for person, papers and records ...

COMPOSITION OF THE COMMITTEE

Fifth Session - Thirty-fourth Parliament

Honourable Bruce Strachan, MLA, **Chairman**
(Prince George South)

Honourable Stan Hagen, MLA
(Comox)

Honourable John Jansen, MLA
(Chilliwack)

Mr. Mel Couvelier, MLA
(Saanich and the Islands)

Mr. Duane Crandall, MLA
(Columbia River)

Mr. Nick Loenen, MLA
(Richmond)

Mr. Harold Long, MLA
(Mackenzie)

Mr. Dan Peterson, MLA
(Langley)

Mr. Colin Gabelmann, MLA, **Deputy Chairman**
(North Island)

Mr. Glen Clark, MLA
(Vancouver East)

Ms. Anne Edwards, MLA
(Kootenay)

Mr. Larry Guno, MLA
(Atlin)

Ms. Joan Smallwood, MLA
(Surrey-Guildford-Whalley)

Mr. David Zirnhelt, MLA
(Cariboo)

Mr. Craig James
Clerk of Committees

ACKNOWLEDGMENTS

Your Committee wishes to express its appreciation to the more than 1000 citizens of the Province who either responded by telephone to the public hearing advertisements, participated at one of the Committee's initial round of public hearings, submitted written material for consideration by the Committee or attended the hearings as interested observers.

Your Committee appreciates the procedural and administrative support it received from the Office of the Clerk of Committees and the work undertaken by the Legislative Library, Hansard and the government agency, Intergovernmental Relations.

ORGANIZATION

On Thursday, June 27, 1991 the Committee first met and elected the Honourable Bruce Strachan, MLA as Chairman of the Committee and Mr. Colin Gabelmann, MLA as it's Deputy Chairman. After a series of formal and informal organizational meetings the Committee decided upon an initial round of public hearings promoted by a communication strategy that was meant to encourage as many participants as possible to become actively involved in the process of consultation related to British Columbia's place in Canada.

METHOD OF OPERATION

The Select Standing Committee on Constitutional Matters and Intergovernmental Relations held 12 meetings not including informal business sessions, hearing from 100 witnesses at the advertised public hearings, including the roundtable discussion, as follows:

Thursday, June 27, 1991	Victoria	*Business Meeting*
Tuesday, July 3, 1991	Vancouver	*Business Meeting*
Monday, July 8, 1991	Richmond	*Business Meeting*
Monday, July, 22, 1991	Terrace	*Public Hearing*
Tuesday, July 23, 1991	Prince George	*Public Hearing*
Thursday, August 1, 1991	Cranbrook	*Public Hearing*
Friday, August 2, 1991	Cranbrook	*Business Meeting*
Tuesday, August 6, 1991	Nanaimo	*Public Hearing*
Wednesday, August 7, 1991	Vancouver	*Public Hearing*
Thursday, August 8, 1991	Kamloops	*Public Hearing*
Monday, August 12, 1991	Victoria	*Roundtable Discussion & Business Meeting*
Tuesday, August 13, 1991	Victoria	*Business Meeting*

The process for this initial phase of the inquiry was extremely successful. Many people were heard. Many more indicated a desire to participate further. The Committee wanted as intense a public consultation process as possible. Constrained by an initial deadline of Thursday, August 15, 1991, imposed by the Legislative Assembly, it developed the schedule as only the first round of public hearings for the preparation of it's **Preliminary Report**.

PRELIMINARY OBSERVATIONS AND PRELIMINARY RECOMMENDATIONS

Preliminary Observations

THE MOST COMMON STATEMENT TO THE COMMITTEE WAS THAT CANADA MUST REMAIN UNITED.

British Columbians in all six communities made clear their commitment to a united Canada. More than 1000 people contacted the Committee by telephone, oral presentation or written submission. The response verified the Committee Members' belief that the consultation process throughout the province is imperative to finding a reasonable provincial position on the Canadian federation.

The first six public hearings took place in mid-summer, many of them starting during daytime working hours, and at short notice. Nevertheless, 100 individuals appeared before the Committee, 69 individuals and organizations have made written submissions so far, over 600 people made telephone inquiries and nearly 300 people attended at least one of the public hearings.

This positive response leads the Committee to look ahead to participation of a broader cross section of British Columbians and a clearer statement from representative bodies such as local governments and organizations.

Emerging Themes

Several themes began to emerge prompted by the List of Questions which were widely circulated. People talked about:

1. Quebec and Canada;
2. Federalism and the division of powers;
3. Aboriginal people;
4. Charter of Rights, the notwithstanding clause and the amending formula;
5. Fiscal responsibility;
6. Language and culture;
7 Women in Canadian society;
8. Multiculturalism; and
9. Parliamentary reform and political institutions.

The list is neither complete nor in any order of priority.

The following quotations are representative of some of the concerns British Columbians put to the Committee.

- My hope for these public hearings is that you will come away with the message that many of us want to see a Canadian nation in which <u>all</u> citizens consider themselves, first and foremost, Canadians.

- Canadians have made it very clear that they are simply not willing to leave the fate of the country they love so much in the hands of a select few.

- The failure of the Meech Lake Accord highlighted the lack of communication between government and the public.

- I am convinced that the Constitution of Canada belongs to the people of Canada.

- Canada's natives are as much a cornerstone of this country as any group.

- A consensus seems to have emerged among both politicians and the public that the present system of government in Canada is not working and what is desperately needed are dramatic institutional changes to an apparently outdated federal system conceived in 1867 and inappropriate now.

- I don't think that the parties are really all that far apart; they just think they are.

- How can the notion of limited parliamentary supremacy be optimally balanced with an entrenched Charter in such a way as to protect the ultimate right of the legislatures to have the last word, while at the same time ensuring that individual rights cannot or will not be easily over-ridden?

I think we have to be willing to recognize different priorities. We are different. We might wish to be equal, but we are going to be equal in our own way.

- At a time when many Canadians are asking themselves, is Canada worth saving?, the Canadian Chamber of Commerce believes that the answer is a resounding, yes!

The ideas in these statements were repeated by numerous participants.

Preliminary Recommendation #1

Your Committee recommends that:

a. **all British Columbians be given an opportunity to participate in any constitutional review process;**

b. **a variety of innovative educational and participative programs be developed to assure communication between the Committee and the public; and**

c. **an all-party legislative committee be the vehicle to accomplish these goals.**

The Committee believes that the best participation by community groups will occur if they are encouraged and supported. To do so, the Committee would prepare discussion kits for use by schools, Chambers of Commerce, labour organizations and other representative community groups. It has considered a task group to ensure that enough facilitators exist in communities to assure effective use of the kits. Multicultural organizations, native peoples, and women's groups, for example, must be actively involved.

As well, the Committee would like to establish a toll-free phone line for all British Columbians. It is prepared to create and place a series of radio and newspaper advertisements before it launches the next round of public hearings.

Since B.C.'s process of creating a provincial position must be not only informative but also receptive, the Committee proposes that elected representatives themselves continue to constitute the Committee.

Many participants expressed their disappointment at the lack of communication by politicians in today's world. They said those elected to political office must recognize that their primary responsibility is to their constituents and not to the institutions of political office.

Their concerns were clear and honest. So were their statements of appreciation that the preliminary hearings were conducted by the MLA's themselves rather than by an advisory committee of non-elected people.

Your Committee has received a series of documents published by the British Columbia Cabinet Committee on Confederation, particularly the *Discussion Papers on British Columbia in Confederation*, and recommends this and others in the series for anyone interested in serious constitutional debate. Other excellent works on constitutional analysis can be found in the list of Research Documents.

Preliminary Recommendation #2

Your Committee, expecting a provincial general election in the near future, recommends that all administrative work begun by the Committee continue during dissolution. Such work would be administered through the Office of the Clerk of Committees.

Since the continuing work has been directed by a properly constituted legislative committee, that work would continue through the Office of the Clerk of Committees.

Preliminary Recommendation #3

Your Committee recommends that once the Thirty-fifth Parliament has been elected and the Executive Council has been appointed the Lieutenant Governor in Council authorize the creation of an all-party committee with similar terms of reference and a significant continuity in membership.

Our recommendations recognize themes and suggestions from submissions to the Committee so far. It is premature to reach substantive conclusions. A process involving *consultation, education* and *participation* is broadly indicated. The recommendations allow consistency and continuity in the process of constitution building.

WRITTEN SUBMISSIONS

Your Committee has received the following 69 written submissions from the individuals and organizations listed below:

Abercrombie, D. **CM 98/91**
Abrams, Kevin **CM 71/91**

Barber, George **CM 62/91**
Beatty, Patricia **CM 94/91**
Berry, A.J. **CM 53/91**
Booiman, S.H. **CM 18/91; CM 18a/91**
British Columbia Chamber of Commerce **CM 78/91**
British Columbia Libertarian Party **CM 82/91**
Burke-Jaffney, J.& I. **CM 63/91**

Carder, Ralph **CM 92/91**
Charbonneau, Art **CM 85/91**
Christensen, Lissy **CM 57/91**
Coalition 33 **CM 77/91**
Communist Party of Canada, Vancouver & Lower Mainland Branch **CM 76/91**
Connolly, Phil **Cm 61/91**
Crapo, Janet **CM 59/91**
Crommelin, Milfred **CM 19/91**
Crowe, Dorothy **CM 17/91**

Dennison, Bill **CM 84/91**
Dennison, John **CM 70/91**
Durfee, A. Bruce **CM 23/91**

Elgaard, Florence **CM 90/91**
Etter, Harold **CM 31/91**

Fairservice, Robin **CM 15/91**
Freeze, R.C. **CM 87/91**

Gagnier, J. Robert **CM 32/91**
Garner, Vivian **CM 51/91**

Gittins, June CM 52/91; CM 52a/91
Grzegorek, Susan CM 60/91

Haley, M.M. CM 64/91
Hardwick, Walter CM 66/91
Health Care Advocates of B.C. CM 83/91
Hospital Employees' Union CM 79/91

Italian Cultural Centre Society CM 81/91

Knaus, Jakob CM 14/91
Kram, L. CM 91/91
Kusser, Wolfgang CM 28/91

Linsdale, Christopher CM 97/91
Lord, Margaret CM 89/91
Lundgren, Muriel CM 96/91

Madden, Charles CM 104/91
Margolis, Ruth CM 55/91
Marshall, Dorothy CM 33/91
McKellar, Joan CM 73/91
Messinger, C.T. CM 20/91
Meyer, Linda CM 95/91
Mitchell, Harry CM 103/91
Molloy, Ann CM 100/91

Noble, Ernest CM 102/91

Osburg, Sylvia CM 80/91

Pement, Jackie CM 12/91

Raybould, Tim CM 66/91
Reed, Maureen CM 74/91
Rowan, Paul CM 101/91
Rowsome, Gerald CM 22/91

Shaw, Dennis CM 58/91
Shelford, Cyril CM 16/91
Simpson, R.G. CM 21/91
Small, George CM 56/91
Stevens, Alistair CM 65/91
Swan, Leighton CM 72/91

Talbot, Richard CM 54/91
Tanser, Douglas CM 13/91
Thompson, Robert CM 68/91

United Native Nations CM 75/91
Upper Nicola Indian Band CM 86/91

van Kuyk, Aggie CM 93/91

Williams, T. CM 88/91

Wood, Bruce CM 74/91

ORAL PRESENTATIONS

The following 100 individuals and organizations appeared at one of the Committee's *initial* public hearings:

Abrams, John
Allaire, Bob
Allevato, Carmela
Audain, Tunya

Barry, Mr.
Barber, George
Bell, Larry
Berg, Ken
Birdstone, Denise
Boone, Lois

Boscariol, Celso
Bourgeois, Marie
British Columbia Chamber of Commerce
Broster, Jim
Brown, Harold

Ciccione, Vern
Coalition 33

Communist Party of Canada - Vancouver & Lower Mainland Branch
Connolly, Phil
Craig, Gordon
Crapo, Janet
Croft, Peter

Dennison, John
Derrickson, Larry

Enemark, Tex
Etter, Harold

Federation des Franco-Columbiens
Foggin, Randy
Freeze, Russell
Frey, John

Gainor, Chris
Garner, Vivian
Giesbrecht, Helmut
Gittens, June
George, Edward
Grant, Arthur

Hadley, Eleanor
Hammel, Sue
Harris, Chris
Hardwick, Walter
Hayes, William
Health Care Advocates of British Columbia
Hospital Employees' Union

Italian Cultural Society

Johnson, Ed
Johnson, Heather & Warren
Johannson, Roff
Judd, Gordon

Kennelly, Jim
Klamhamer, Maurice
Kohler, Peter
Kordyban, Bill

Lanskail, Donald
Leahy, Jean
Linley, Cindy

MacDonald, Jack
Margolis, Ruth
Matheson, Anne
McCarthy, Kevin
McDonald, Mike
McKellar, Joan
McKinnon, Gordon
McMaster, Dick
McWhinney, Edward
Meyer, Linda
Miller, Toto
Morley, Terry

Orser, Russell
O'Donnell, Dorothy

Pement, Jackie

Ramsey, Paul
Reed, Maureen
Reid, David
Rice, Desmond
Ricketts, John
Roth, Marva
Rupp, Dan

Shaw, D.
Schurr, Ruben
Shelford, Cyril
Shoesmith, Ms.
Simpson, R.
Small, George
Smith, Lynne
Smith, Q.C., Melvin
Stevens, Alistair
Stevens, Heather
Sullivan, Kathleen
Swan, Leighton
Sweeney, Chris

Thompson, Robert
Thompson, Keith
Turmin, Walter
Turott, Jean-Pierre

United Native Nations
Upper Nicola Indian Band

Warnke, Allen
Westwood, John
Wood, Bruce
Wushke, Eric

RESEARCH DOCUMENTS

The following is only a partial list of documents used by the Committee during this initial phase of its inquiry:

Alberta in a new Canada; discussion paper from the Constitutional Reform Task Force of Alberta
CM 4/91

Approaching Constitutional reform: a British Columbia perspective by Glen Clark, MLA and Chris Harris.
CM 10/91

British Columbia Youth Advisory Council briefing note. **CM 3/91**

Canada's Constitution Act 1982 and amendments: a documentary history (2 volumes). Anne Bayefsky. **CM 29/91**

Changing for the better; an invitation to talk about a new Canada: a public discussion paper [Ontario]. **CM 6/91**

The Citizens' Forum on Canada's Future; quotes from B.C. discussion groups [by Business Council of British Columbia]. **CM 8/91**

Confederation for the twenty-first century: a background discussion paper. Mel Smith, Q.C. **CM 1a/91**

The Constitution Act, 1982; amended by Constitution Amendment Proclamation, 1983 (SI/84-102) **CM 27/91**

Discussion papers on British Columbia in confederation. [various authors] **CM 25/91**

The Economy and Constitutional change. Donald Wright. **CM 24/91**

The Political and constitutional future of Quebec; report of the Commission on the Political and Constitutional Future of Quebec. **CM 7/91**

The Process for amending the Constitution of Canada; report of the Special Joint Committee of the Senate and the House of Commons. **CM 30/91** [Legislative Library copy]

Public involvement strategy. **CM 11/91**

The Renewal of the federation: a British Columbia perspective. Mel Smith, Q.C. **CM 1/91**

Select Committee on Ontario in Confederation; interim report, March 1991. **CM 5/91**

Select Standing Committee on Constitutional Matters and Intergovernmental Relations background material. Jack MacDonald **CM 2/91**

A Western perspective on the Constitution. Allan Blakeney. **CM 9/91**

LIST OF QUESTIONS

Having studied the many reports on constitutional analysis published recently, your Committee was able to generate the following list of preliminary questions assisted by the work of other committees concurrently working on the same subject. These preliminary questions have been shared with thousands of citizens in the Province, so far:

General Questions

1. What are the key values shared in common by Canadians and how should they be reflected in the Constitution?

2. Which government programs are most effective when adapted to local conditions and run by provincial and local governments rather than by the federal government?

3. How far can decentralization go without calling into question the basic rationale for staying together as a country?

4. Which government programs are most effective when uniform standards are applied across the country?

5. What kinds of changes may be required to central institutions to ensure that regional interests are adequately reflected?

6. Is it feasible to allow Quebec relative autonomy or individual provinces some leeway within a centralized federal structure?

7. Should statutory or constitutional limits be placed on governments' ability to spend, to tax, or to go into debt?

8. Should there be greater formal coordination, not just between the federal and provincial governments, but also among the provinces, to share information, facilities and expertise?

9. How can the desires of distinct groups within the population - aboriginal people, women, linguistic and cultural minorities, citizens of northern territories, the populations of the various provinces - receive the kind of recognition they perceive as needed, while still maintaining principles of equality, equity and national unity?

Federalism

10. Do you agree on the appropriate balance between national objectives and regional diversity?

11. Do you believe the federal system provides enough flexibility for British Columbia to succeed as a province?

12. What functions are better performed by the federal government?

13. Should the federal government have more responsibility?

14. Is Canada too centralized?

15. Should the parliamentary system be kept?

16. Should a province be allowed to leave the federation?

17. Is a constitutional monarchy still relevant today?

18. Who should fill the role as the head of state of Canada?

19. Should all provinces and territories have the same constitutional responsibilities?

20. How do varying constitutional responsibilities affect the ability to implement national social and economic policies?

21. Should Quebec be assigned special powers in certain areas?

22. Should British Columbia be assigned special powers in certain areas?

23. Could Canada operate better as a union of countries and would we still be Canadians?

24. What should be the responsibilities of the municipal governments?

25. What should be the responsibilities of each citizen?

Federal/Provincial Institutions

26. Should there be a Senate and, if so, what form ought it to take to ensure that the views of all the regions of the country are taken into account in national decision-making?

27. Should all decisions taken at First Minister's Conferences require ratification by Parliament and provincial legislatures?

28. Should there be a constitutional requirement for regional representation on the Supreme Court, and various federal administrative and regulatory bodies?

29. Are parliament's powers being eroded in the face of court decisions?

30. What other mechanisms, such as electoral reform, enhance the representative functions of the national institutions?

Division of Powers

31. How does the division of powers affect the ability of governments to work together in securing sustained social and economic progress?

32. What powers overlap and does this duplication lead to confusion and economic inefficiencies?

33. Should economic principles be inserted into the Constitution?

34. Should the provinces have a say in monetary policy?

35. What is the most appropriate way to ensure the efficient delivery of the broad range of social services?

36. Should the Constitution require minimum federal transfers to the provinces to ensure the delivery of social programs?

37. Do national standards hamper the ability of the provinces to respond quickly to local needs and interests?

38. Should all provinces have identical responsibilities?

39. Should the Constitution allow governments to delegate their responsibilities?

40. Who should have the final responsibility for matters ranging from the environment to women's issues?

41. Should provinces be able to partake or abstain from certain federal government programs?

Charter of Rights and Freedoms

42. Do we have more rights and freedoms now than before we had the *Charter*?

43. Does the *Charter* require clarification of intent?

44. Should additional rights and freedoms be protected under the *Charter*?

45. How do you balance individual rights with the needs and interests of society?

46. Who should have the final say in making laws, democratically elected representatives or the courts?

47. Should the *notwithstanding* clause be kept in the *Charter*?

48. Should additional restrictions be placed on the use of the *notwithstanding* clause?

49. Should Canada have two or more official languages?

Aboriginal Issues

50. How can aboriginal concerns best be resolved in Canada?

51. Should guaranteed seats be provided to aboriginal people in the House of Commons, the Senate and provincial legislatures?

52. Who would be responsible for establishing a constituent assembly?

53. How should its members be selected to best represent all Canadians?

54. Would a constituent assembly be any more representative of Canadians than elected members of Parliament and provincial legislatures?

55. Should the constituent assembly's recommendations be binding?

Amending the Constitution

56. Should there be public hearings?

57. Are referenda an appropriate approval mechanism and, if so, would a simple national majority be sufficient?

58. Who would determine the timing and wording of the referendum question?

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